



POLICE DEPARTMENT

September 15, 2009

MEMORANDUM FOR: Police Commissioner

Re: Detective Yong Lee  
Tax Registry 917864  
Housing Borough Brooklyn, VIPER 2  
Disciplinary Case No. 83519/07  
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The above-named member of the Department appeared before me on August 25, 2009, charged with the following:

1. Said Detective Yong Lee, while assigned to Vice Enforcement Division, on or about April 12, 2006, at a location known to this Department, in Kings County, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective made or caused a false entry in the business records of an enterprise when said Detective signed a supervisor's tax number to six (6) separate supporting depositions which were filed in Kings County Criminal Court. *(As amended)*

PG 203-10 PAGE 1, PARAGRAPH 5      PROHIBITED CONDUCT

2. Said Detective Yong Lee, assigned as indicated in Specification #1, on or about the date and location indicated in Specification #1, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective offered a written instrument that contained a false statement or false information to a public office with the knowledge or belief that said written instrument would be filed with or become a part of the records of such public office, in that said Detective signed a supervisor's tax number to six (6) separate supporting depositions which were filed in Kings County Criminal Court. *(As amended)*

PG 203-10 PAGE 1, PARAGRAPH 5      PROHIBITED CONDUCT

3. Said Detective Yong Lee, assigned as indicated in Specification #1, on or about the date and location indicated in Specification #1, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit:

said Detective improperly completed a written instrument when said Detective signed a supervisor's tax number to six (6) separate supporting depositions which were filed in Kings County Criminal Court. *(As amended)*

PG 203-10 PAGE 1, PARAGRAPH 5      PROHIBITED CONDUCT

The Department was represented by Michelle Alleyne, Esq., Department Advocate's Office, and the Respondent was represented by James Moschella, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

The Department has moved to dismiss Specification No. 2. The Respondent entered a plea of Guilty to Specification Nos. 1 & 3. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty, is found Guilty.

SUMMARY OF EVIDENCE PRESENTED IN MITIGATION

The Respondent had previously testified in the Departmental trial regarding Lieutenant Wong, Sergeant Tso and Police Officer Hamm (Disciplinary Case Nos. 82154/06, 82155/06 and 82152/06).<sup>1</sup> It was agreed by both parties that the Respondent's testimony at that proceeding should be incorporated as the testimony in this case. The

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<sup>1</sup> Although there were three respondents in that case Respondent Lee's testimony only related to the charges against Wong and is hereinafter referred to as the Wong decision.

reason for this was that all of the issues before this Court were fully explored in that proceeding.

It was also agreed that the document received in evidence in that trial that relate to this case should be received in evidence in this proceeding utilizing the evidence numbers from that prior proceeding.

Consequently the following documents were received in evidence:

Department Exhibit (DX) 2: Criminal Court Complaint against Hui-Ru Ruan.

DX-3: Criminal Court Complaint and supporting deposition against Lei-Man Li.

DX-4: Criminal Court Complaint and supporting deposition against Bing Li.

DX-5: Criminal Court Complaint and supporting deposition against Hua Zhang.

DX-6: Criminal Court Complaint and supporting deposition against Mei Zheng.

DX-7: Criminal Court Complaint and supporting deposition against Di-Wang Jin.

DX-8: Criminal Court Complaint and supporting deposition against Tian Wang.

DX-9: Criminal Court Complaint and supporting deposition against Linda Wang.

Respondent's Exhibit A: Complaint Room Screening Sheet regarding Hui-Ru Ruan.

#### The Respondent

The Respondent has been a member of the Department for 13 years. He is presently assigned to Police Service Area (PSA) 1. Prior to that assignment, he worked in Brooklyn South Vice (BSV) for three to four years. While at BSV, the Respondent functioned as both an investigator and an undercover. The Respondent said that prior to

commencing an assignment at BSV, he would be informed by the sergeant at a “tac meeting”<sup>2</sup> of the particular function he would have for the day.

The Respondent acknowledged that he was working on April 12, 2006, and responded to a location that had previously been identified as a prostitution location. After reviewing documentation to refresh his recollection, the Respondent remembered that the premise he went to that day was 4214 8<sup>th</sup> Avenue. He stated that he was working with Wong, Tso, Hamm and Officers Augello, Childs and Cheregotis for that operation. He was assigned as an undercover.

Upon arriving at the premise, the Respondent testified that he was reassigned to the entry team, and Wong was designated the undercover. Upon making an entry to the location, the Respondent said that he, Tso and Augello all entered. He described the premise as a commercial storefront. The Respondent indicated that he maintained visual and audio contact with Wong when he went into the location; he was positioned about a half block away from the establishment and was linked with Wong by means of a “kel”<sup>3</sup> and a Nextel radio.

About five minutes after Wong went into the premise, the Respondent recalled receiving notification from him to enter. He was told by Tso that Wong “got the agreement...” The entry team walked up to the location and found the door locked. They knocked on the door and said, “Police, open up,” and an Asian man opened the door. That individual was taken to the side by someone on the entry team and the Respondent proceeded to the rear of the premise. The Respondent described the interior of the

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<sup>2</sup> A tactical meeting where the tactical plan for an operation is discussed.

<sup>3</sup> A hidden listening device worn by an undercover.

establishment as having a desk, women seated around a table, partitioned rooms with massage tables, a shower and a steam room. He was unsure if he saw Wong upon entering the location. After the premise had been searched, individuals were taken into custody.

The Respondent could not recall if he personally removed any property out of the prostitution premise. He said that he would have to look at the voucher. He recalled that seven individuals were arrested at that location, half of whom were transported in a prisoner van and the other half by the local precinct. He specified that one male and six females comprised those arrested, and they were taken to the 72 Precinct. The Respondent also responded to the precinct where he was told by Tso that he was going to "take the arrest." Thereafter, he attempted to gather pedigree information concerning the defendants, however, none of them spoke English so Tso obtained the information from them in Chinese. The Respondent then began the arrest paperwork. He recalled that Wong was also in the precinct but he was unsure exactly where he was.

Eventually, the Respondent said that he conferred with Wong as to the circumstances of the arrest. He testified, "He informed me he was offered by the male defendant—he was offered the prostitutes. He was offered sex in exchange for money." Wong told the Respondent, "to put him (Wong) down as an undercover." He then completed the supporting depositions and sent them to the Early Case Assessment Bureau (ECAB) of the District Attorney's office. The following day he said he spoke with either a paralegal or Assistant District Attorney (ADA) to draw up a felony complaint for promoting prostitution. During that conversation, the Respondent said that he relayed that he was "informed by the undercover...that he got agreement from the promoter that

he was offered those girls for sex, for exchange of U.S. currency.” The Respondent said that Wong did not say that he spoke to the women who were arrested for prostitution.

The Respondent recognized a complaint for the promoter, DX 2, sworn to by him and affirmed its accuracy. He also recognized a supporting deposition and complaint, DX 3, for one of the individuals arrested for prostitution. However, he did not recognize the first page of that exhibit. The Respondent clarified that DX 3 contains a supporting deposition pertaining to the arrest of Lei Man Li. The Respondent identified DX 4 as a supporting deposition that he completed pertaining to the arrest of Bing Li for a prostitution offense, specifically, “manual stimulation of penis in exchange for \$30 U.S. currency.” The Respondent said that he checked one of the check boxes on the deposition for that arrest based on the information that he was provided by the undercover, Wong.

Wong never reviewed the Respondent’s paperwork after they spoke regarding the circumstances of the arrests. Although he saw Wong the following day, April 13, Wong never asked him about the paperwork. Nor did he ask about the paperwork on any subsequent day. The Respondent agreed that he submitted the paperwork based on Wong’s direction, and he used Wong’s tax number on the supporting deposition to denote that he was the undercover.

On cross-examination by counsel for Wong, the Respondent indicated that Wong never told him that the females offered to perform a sexual act. Rather, he agreed that Wong informed him that a man offered the females to perform a sexual act on him. He further agreed that he called ECAB and had a conversation with a person in the screening room. After reviewing a complaint room screening sheet, RX A, the Respondent

acknowledged that it contained what he told the ECAB personnel regarding the facts of the prostitution arrests that were made. He agreed that a “male promoter” offered the services of the females, and not that the females offered their services individually.

No supporting deposition was filed for the arrest of Hui-Ru Ruan. The Respondent said that he signed a complaint for that arrest, RX 2, and that he reviewed it prior to signing it. The complaint reflects the offer made to the undercover, “\$30 for a hand job.” The Respondent clarified that Ruan “offered the females” to perform the service, not that the females offered to perform the service. He said that he never had an opportunity to review the complaints annexed to his supporting depositions.

The Respondent was shown seven criminal court complaints, DX 3 through DX 9. In examining each of them, he affirmed that he never spoke to the preparers of those complaints, Officers Liza Dupont and Cheryl Myers. Nor did he ever tell them or the District Attorney’s office the facts that were contained in those complaints. He agreed that the criminal court complaints indicate that the undercover was approached by the females and offered a sexual act. The Respondent indicated that he never told anyone in the District Attorney’s office this. In actuality, he relayed to them what Wong told him—that it was a male who offered the females.

The Respondent claimed that he never saw the aforementioned criminal court complaints before he testified in this matter.

The Respondent had no recollection of having a conversation with Assistant ADA Joshua Karlton. He also specified that he did not tell an ADA that the undercover had conversations with the male and never the females. No ADA called to ask about improprieties in the complaints and documents were unable to refresh the Respondent’s

recollection that he spoke to Karlton about the facts of the case. He said that he never had such a conversation.

On cross-examination by counsel for Tso, the Respondent acknowledged that the procedure at BSV was to conduct a “tac meeting” before commencing an operation. At the meeting, the locations to be targeted were identified, many of which were “kited.”<sup>4</sup> The Respondent said that it was not unusual to deviate from the locations identified at the “tac meeting,” in fact, it was fairly common.

On redirect examination, the Respondent said that he completed the supporting deposition for the arrest of Bing Lee, DX 4. He stated that he indicated on that deposition that Bing Lee was arrested for prostitution based on what he was informed by the undercover. He also agreed that he checked a box on the deposition reflecting that Bing Lee “agreed or offered to engage in manual stimulation.” This deposition was completed on April 12, 2006, the date of the actual arrest. The Respondent reiterated that Wong, the undercover, never checked his paperwork.

On re-cross examination, the Respondent indicated that he was never informed about a direct offer for services from the women. He reiterated that he was told that a man offered the women. The Respondent said that he checked a box on the deposition, and checked the box closest to the incident. He agreed that the check boxes set forth a basis for the arrest and not the facts.

#### PENALTY

In order to determine an appropriate penalty, the Respondent’s service record was examined, see *Matter of Pell v. Board of Education*, 34 N.Y.2d 222, 240 (1974). The Respondent was appointed to the Department on July 18, 1996. Information from his

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<sup>4</sup> A “kite” refers to a complaint of criminal activity.



personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

On April 12, 2006 the Respondent's team conducted an operation at an alleged prostitution location in Brooklyn. Lieutenant Wong entered the location, a massage parlor, and spoke with a male, Ruan. Ruan offer him the services of any one of seven females who were arrested and charged with prostitution. The back-up team was called and Ruan and the seven females were arrested.

The two specifications for which the Respondent has pled guilty involve the fact that he signed the supporting depositions regarding six of the seven alleged prostitutes using Wong's tax number. It should be noted that the supporting deposition for Wei-Man Li (DX 3) was apparently signed by the Respondent in his own name and is not part the charges.

The Department has asked for a penalty of 30 days time already served on suspension and a period of one year dismissal probation. The Respondent has asked this Court to recommend a lesser penalty.

There have been a number of cases in which a member of the service has been charged with similar misconduct and the penalty has not included dismissal probation.

In Disciplinary Case No. 78778/03, signed 01/19/04, a 13-year member with no prior disciplinary record pleaded guilty at a mitigation hearing to signing another undercover detective's shield number on two supporting depositions regarding a "buy & bust" arrest and filing them with the District Attorney. As a result of his actions, the criminal case was dismissed. The Court recommended a penalty of the loss of 30

vacation days and dismissal probation however the final penalty was the loss of 30 vacation days *without* the dismissal probation.

In Disciplinary Case No. 79771/04, signed 01/18/05, a 14-year member with no prior disciplinary record forfeited 18 vacation days for signing another officer's name on a criminal court supporting deposition. In Disciplinary Case No. 83629/08, signed 09/10/08, a 12-year member with no prior disciplinary record forfeits 30 vacation days for signing supporting depositions on behalf of other members of service.

In Disciplinary Case No. 83630/08, signed 10/07/08 and Disciplinary Case No. 84027/08, signed March 10, 2009, a 12-year member and a seven-year member with no prior formal disciplinary records each forfeited 30 vacation days for signing supporting depositions on behalf of others and/or allowing others to sign depositions on his behalf. It should be noted that the original plea agreement included dismissal probation which was not part of the final penalty.

In Disciplinary Case No. 84026/08, signed March 30, 2009, an 11-year member with no prior disciplinary record forfeited 30 vacation days for signing supporting depositions on behalf of other member of the service. Here again the original plea agreement included dismissal probation which was not part of the final penalty.

In Disciplinary Case No. 84029/08, signed August 4, 2009, a six-year member with no prior disciplinary record forfeited 30 vacation days for, on one or more occasions, allowing other members of the service to sign supporting depositions on his behalf. The Respondent in that case had been the subject of a Departmental trial. After exploring the legal issues by the defense and finding the Respondent guilty the Court in that case considered the Department's recommendation that the penalty include

dismissal probation. The Court recommended a penalty of 30 days as “fair and appropriate” and that recommendation was adopted.

The Department has urged that this case is different because the complaints which were drafted based on information provided in these supporting depositions incorrectly indicated that there was a direct interaction between the undercover and each prostitute.<sup>5</sup>

In its decision in the Wong case this Court addressed that issue and noted the following:

The first question to be determined is, were the supporting depositions improperly or falsely filled out? Looking at the forms and the choices offered they are in fact accurately filled out. The forms do not contemplate a situation where the operator of a house of prostitution offers the patron a choice of which prostitute’s services he would like to avail himself of. The only choices called for on the form are the type of sexual act offered or agreed to.

The problem seems not to be with either Lee, who completed the supporting depositions, or Dupont and Myer,<sup>6</sup> who assumed the supporting depositions reflected facts they are more accustomed to. The problem is with the use of a form that does not reflect a situation that might reasonably be expected to occur or that offered an open ended option in which the deponent could insert a fact pattern to cover a situation like the one Wong encountered on April 12, 2006.

There is no evidence or any reason to believe the boxes on this form would have been filled out any differently had Wong personally signed them.

These are apparently the forms used for the crime charged (230.00) and within the context of those forms, they are filled out accurately.

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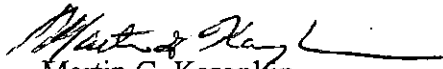
<sup>5</sup> These misstatements along with other allegations fueled a belief that Wong, Hamm and Tso were engaged in criminal conduct. Those criminal charges were subsequently dismissed.

<sup>6</sup> Dupont and Myer were officers who prepared the criminal court complaints in the prostitution cases.

Indeed based on this reasoning the Court supported the Department's application to dismiss Specification No. 2. Moreover this Respondent helped prepare the Complaint Room Screening sheet (RX A) and signed the criminal court complaint against the male, Ruan, (DX-2), both of which have an accurate version of the facts.

There is in the end no difference between what this Respondent did than the actions taken by any of the officers in the other cases cited above on the issue of penalty. This Court therefore recommends a penalty of 30 days time already served on suspension.

Respectfully Submitted,

  
Martin G. Karopkin  
Deputy Commissioner - Trials

**APPROVED**  
NOV 23 2009  
  
RAYMOND W. KELLY  
POLICE COMMISSIONER

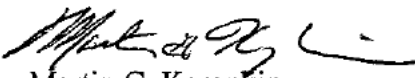
POLICE DEPARTMENT  
CITY OF NEW YORK

From: Deputy Commissioner - Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
DETECTIVE YONG LEE  
TAX REGISTRY NO. 917864  
DISCIPLINARY CASE NO. 83519/07

On the last three performance evaluations contained in his file, the Respondent received ratings of 3.5, 4.5 and 4.0, in 2002, 2006 and 2008, respectively.

[REDACTED] The Respondent has no prior, formal disciplinary history.

For your consideration.

  
Martin G. Karopkin  
Deputy Commissioner - Trials